

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

JIMMY HUDDLESTON,

Plaintiff,

v.

Case No. 8:21-cv-2298-TPB-JSS

MATTHEW NICKERSON and
MICHAEL SPERDUTI,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

This matter is before the Court on consideration of the report and recommendation of Julie S. Sneed, United States Magistrate Judge, entered on January 19, 2022. (Doc. 5). Judge Sneed recommends that Plaintiff's motion for leave to proceed *in forma pauperis* (Doc. 2) be denied, and that the complaint (Doc. 1) be dismissed without prejudice with leave to file an amended complaint. No objection to the report and recommendation was filed, and the time to object has expired.

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject, or modify the magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); 718 F.2d 198, 199 (4th Cir. 1983); *Williams v. Wainwright*, 681 F.2d 732 (11th Cir. 1982). A district court must "make a de novo determination of those portions of the [report and recommendation] to which an objection is made." 28 U.S.C. § 636(b)(1)(C). When

no objection is filed, a court reviews the report and recommendation for clear error. *Macort v. Prem, Inc.*, 208 F. App'x 781, 784 (11th Cir. 2006); *Nettles v. Wainwright*, 677 F.2d 404, 409 (5th Cir. 1982).

Upon due consideration of the record, including Judge Sneed's report and recommendation, the Court adopts the report and recommendation. Consequently, Plaintiff's *in forma pauperis* motion (Doc. 2) is denied. The complaint (Doc. 1) is dismissed without prejudice, with leave to amend to cure the deficiencies identified by Judge Sneed in her report and recommendation. Plaintiff is directed to pay the filing fee and file an amended complaint on or before February 24, 2022. Failure to do so will result in this Order becoming a final judgment. *See Auto. Alignment & Body Serv., Inc. v. State Farm Mut. Auto. Ins. Co.*, 953 F.3d 707, 719-20 (11th Cir. 2020).

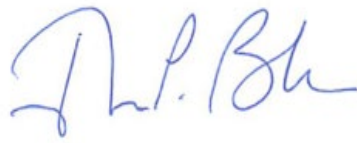
Accordingly, it is

ORDERED, ADJUDGED, and DECREED:

- (1) Judge Sneed's report and recommendation (Doc. 5) is **AFFIRMED** and **ADOPTED** and **INCORPORATED BY REFERENCE** into this Order for all purposes, including appellate review.
- (2) Plaintiff's motion for leave to proceed *in forma pauperis* (Doc. 2) is hereby **DENIED**.
- (3) The complaint (Doc. 1) is **DISMISSED WITHOUT PREJUDICE**, with leave to amend.

- (4) Plaintiff is directed to pay the filing fee and file an amended complaint on or before February 24, 2022. Failure to do so will result in this Order becoming a final judgment.

DONE and **ORDERED** in Chambers, in Tampa, Florida, this 4th day of February, 2022.



TOM BARBER
UNITED STATES DISTRICT JUDGE